



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTON
ATTORNEY GENERAL**

December 12, 1989

Honorable James T. Shelton
Acting County Attorney
Donley County
P. O. Box 550
Clarendon, Texas 79226

LO-89-103

Dear Mr. Shelton:

You ask:

Can the City of Clarendon use revenue from the municipal hotel occupancy tax for payment of a portion of the costs of reconstruction of municipal tennis courts?

The provisions for municipal hotel occupancy taxes are found in chapter 351 of the Tax Code. You say that based on your review of the law, it appears unlikely that the hotel occupancy tax revenues of the city of Clarendon can be used for municipal tennis court reconstruction. You say, however, that you request our opinion in this matter because of the numerous amendments to applicable law made by the 71st Legislature.

A similar question was presented in Attorney General Opinion JM-965 (1988). In that opinion, based on the law as it existed after the 70th Legislature, we concluded that there was no authorization for use of municipal hotel tax revenues for general recreational purposes.¹

1. The opinion noted that it did not address whether section 351.105 of the Tax Code, applicable only to "eligible coastal municipal[ities]", would permit such types of expenditures, since the city in question in that opinion did not appear to be an "eligible coastal municipality." Attorney General Opinion JM-965 (1988), at 5. The city of Clarendon, located in the panhandle, is clearly not an "eligible coastal municipality," under section 351.105. Accordingly, we need not address in this opinion what kinds of expenditures are permitted under section 351.105.

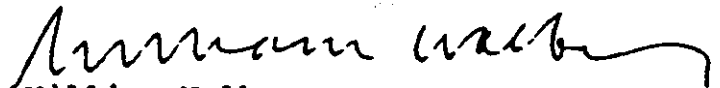
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Although several bills of the 71st Legislature amended provisions of chapter 351, we still find nothing in those amendments authorizing a city such as Clarendon to use its hotel tax revenues for general recreational purposes. See Acts 1989, 71st Leg., chs. 2, § 14.24, at 190, 504, at 1687, 667, at 2206, 1110, at 4597. Section 351.101 as amended, provides that such funds may be used only for publicly owned or managed convention center facilities; advertising and promotional programs for attracting tourists and convention delegates; promotion of the arts; and certain historical restoration and preservation projects and activities.²

Of the purposes for which Clarendon hotel tax funds may be spent under the applicable provisions, we think only that of "improvement" or "equipping" of a convention center facility under section 351.101(a)(1) might conceivably include reconstruction of municipal tennis courts. We assume from your letter that the courts are not part of a convention center. Therefore, we think that the city of Clarendon lacks authority to spend municipal hotel tax funds on tennis court reconstruction.

Yours very truly,



William Walker
Assistant Attorney General
Opinion Committee

APPROVED: Rick Gilpin, Chairman
Opinion Committee

Sarah Woelk, Chief
Letter Opinion Section

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2. A new section appears to authorize use of municipal hotel tax funds for manned space flight tourism facilities in cities containing or near a NASA space center. Tax Code § 351.1015. As Clarendon does not appear to have a NASA space center in or near it, we need not address here what kinds of hotel tax revenue expenditures would be permitted under section 351.1015.